

**United States Bankruptcy Court  
Central District of California  
Northern Division  
Judge Peter Carroll, Presiding  
Courtroom 201 Calendar**

**Tuesday, December 06, 2016**

**Hearing Room      201**

10:00 AM

**9:13-13007    Rene Montano Caro, Jr.**

**Chapter 13**

**#1.00    Hearing**  
RE: [61] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 406 Baker Street, Ventura, CA 93004 . (O, Christina)

FR. 11-1-16

Docket      61

**\*\*\* VACATED \*\*\*    REASON: Stipulated adequate protection order was entered on 11/30/16.**

**Tentative Ruling:**

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<b>Party Information</b>
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**Debtor(s):**

Rene Montano Caro Jr.

Represented By  
Carissa N Horowitz

**Movant(s):**

JPMorgan Chase Bank, National

Represented By  
Christina J O

**Trustee(s):**

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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10:00 AM

**9:16-10514 Mordechai Yosef Orian and Yun Ru**

**Chapter 7**

**#2.00** Hearing

RE: [151] (related document(s)151 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 92-9102 Hula Ln, Ocean View, Hawaii 96737 . ) (Clark, Matthew)

Docket 151

**Tentative Ruling:**

None.

**Final Ruling.** This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d) (2). The failure of the debtor, the trustee, and parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592, 602 (9<sup>th</sup> Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j) (3). **No appearance is necessary.**

The motion is granted pursuant to 11 U.S.C. § 362(d)(2) to permit movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501 and/or a timely complaint to determine the nondischargeability of the debt under 11 U.S.C. § 523. Since a chapter 7 case does not contemplate reorganization, the sole issue before the court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the debtor has equity in the property. See e.g., Nev. Nat'l Bank v. Casbul of Nev., Inc. (In re Casgul of Nev., Inc.), 22 B.R. 65, 66 (9<sup>th</sup> Cir. BAP 1982); Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896 (9<sup>th</sup> Cir. BAP 1981).

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**CONT... Mordechai Yosef Orian and Yun Ru**

**Chapter 7**

The subject real property has a value of \$230,000.00 and is encumbered by a perfected deed of trust or mortgage in favor of the movant. The liens against the property total \$522,490.69. The court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors.

The 14-day period specified in FRBP 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

The movant shall submit an appropriate order.

<b>Party Information</b>
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**Debtor(s):**

Mordechai Yosef Orian

Represented By  
William C Beall

**Joint Debtor(s):**

Yun Ru

Represented By  
William C Beall

**Movant(s):**

DEUTSCHE BANK NATIONAL

Represented By  
Matthew R. Clark

**Trustee(s):**

Sandra McBeth (TR)

Represented By  
Timothy J Yoo

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10:00 AM

**9:16-10680 Albert Fowler**

**Chapter 13**

**#3.00** HearingRE: [42] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 201- 203 Cahuenga Drive, Oxnard, CA 93035-4404 With Proof of Service. (Loftis, Erica)

Docket 42

**\*\*\* VACATED \*\*\* REASON: APO entered on November 28, 2016.**

**Tentative Ruling:**

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<b>Party Information</b>
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**Debtor(s):**

Albert Fowler

Represented By  
Kenneth H J Henjum

**Movant(s):**

The Bank of New York Mellon FKA

Represented By  
Erica T Loftis

**Trustee(s):**

Elizabeth (ND) F Rojas (TR)

Pro Se

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10:00 AM

**9:16-11764 Melanie M McClish**

**Chapter 7**

**#4.00 Hearing**

RE: [12] Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate ALL . )

Docket 12

**Tentative Ruling:**

None.

**Final Ruling.** This motion to continue the automatic stay as to all creditors has been filed by debtor pursuant to 11 U.S.C. § 362(c). Although no creditor or party in interest has filed a written response in opposition to the motion pursuant to LBR 9013-1(f)(1), the court is denying the motion without a hearing because movant has failed to establish a *prima facie* case for the relief requested and an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). **No appearance is necessary.**

Section 362(c)(3)(A) states that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under § 707(b), the stay under § 362(a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate *with respect to the debtor* on the 30th day after the filing of the later case. 11 U.S.C. § 362(c)(3)(A) (emphasis added).

On motion of a party in interest for *continuation* of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any and all creditors (subject to such conditions and limitations as the court may then impose) **after notice and a hearing completed before expiration of the 30-day period.** 11 U.S.C. § 362(c)(3)(B) (emphasis added).

The motion is denied as untimely. Debtor filed the voluntary chapter 7 petition in this case on September 23, 2016. To comply with § 362(c)(3),

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**CONT... Melanie M McClish**

**Chapter 7**

Debtor's motion should have been filed and noticed for a hearing that would have been completed by October 23, 2016. Debtor's motion was not filed until October 24, 2016, and was noticed for a hearing on December 6, 2016 -- all of which is outside of the 30-day period required under 11 U.S.C. § 362(c)(3)(B). The automatic stay has expired.

Debtor's counsel shall submit an appropriate order.

<b>Party Information</b>
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**Debtor(s):**

Melanie M McClish

Represented By  
Eric Ridley

**Movant(s):**

Melanie M McClish

Represented By  
Eric Ridley  
Eric Ridley

**Trustee(s):**

Sandra McBeth (TR)

Pro Se

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10:01 AM

**9:12-13828 Melchiori Construction Co**

**Chapter 7**

**#5.00 Chapter 7 Trustee's Final Report**

JERRY NAMBA, Ch. 7 Trustee

MARGULIES FAITH, LLP, Atty. for Trustee

DON FIFE, CPA, Accountant

Docket 176

**Tentative Ruling:**

None.

**Final Ruling.** This motion has been set for hearing on the notice required by LBR 9013-1(d)(2) and other applicable rules. The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592, 602 (9<sup>th</sup> Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j)(3). **No appearance is necessary.**

**Jerry Namba.** Jerry Namba ("Trustee") has filed a first and final application for compensation and reimbursement of expenses pursuant to 11 U.S.C. §§ 326 & 330. Trustee has itemized \$23,601.63 in fees and \$605.52 in costs, for a total of \$24,207.15. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

In a case under chapter 7 or 11, the court may allow reasonable compensation under § 330 to the trustee for the trustee's services, payable after the trustee renders such services, not to exceed 25% on the first \$5,000 or less,

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**Chapter 7**

10% on any amounts in excess of \$5,000 but not in excess of \$50,000, 5% on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3% of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims. 11 U.S.C. § 326(a).

In this case, Trustee was appointed on October 16, 2012. Trustee's services cover the period of October 16, 2012 through October 25, 2016. The total money disbursed or turned over in the case by the Trustee to parties in interest, excluding the debtor, is \$407,032.61. There being no extraordinary circumstances present in this case, the trustee's requested compensation is presumed reasonable since it is sought at the statutory rate. In re Salgado-Nava, 473 B.R. 911 (9th Cir BAP 2012).

The court finds that the Trustee's requested compensation meets the requirements of 11 U.S.C. § 326(a) and represents reasonable compensation for actual, necessary services rendered in the administration of this estate. The compensation is approved.

**Margulies Faith, LLP**. Margulies Faith, LLP, counsel for the chapter 7 trustee ("Applicant"), has filed its application for a final allowance of fees and expenses in this case. Applicant has itemized \$162,886.50 in fees and \$10,545.08 in expenses, for a total of \$ 173,431.58. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

The court approved Applicant's employment on December 21, 2012, effective November 6, 2012. Applicant rendered a total of 512.80 hours of services to the estate billed at a blended hourly rate of \$317.64. Applicant's services cover the period from November 6, 2012 through August 23, 2016.

Section 330(a)(1)(A) & (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional person" and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1)(A) & (B). In the present case,



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**CONT... Melchiori Construction Co**

**Chapter 7**

Applicant was employed to assist in the administration of the estate. The fee application satisfies the requirements of LBR 2016-1(c) and demonstrates that (1) Applicant rendered actual services to the estate that were necessary to the administration of, or beneficial at the time at which the services were rendered toward the completion of, the case, and the compensation sought for such services is reasonable; and (2) the expenses incurred on behalf of the estate for which reimbursement is sought were actual and necessary.

Accordingly, the court allows as final fees the sum of \$162,886.50. The court further allows as final expenses the sum of \$10,545.08.

**Hahn Fife & Company.** Hahn Fife & Company accountant for the chapter 7 trustee ("Applicant"), has filed its application for a final allowance of fees and expenses in this case. Applicant has itemized \$17,542.00 in fees and \$483.30 in expenses, for a total of \$18,025.30. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

The court approved Applicant's employment on March 4, 2013, effective January 24, 2013. Applicant rendered a total of 64.80 hours of services to the estate billed at a blended hourly rate of \$270.70. Applicant's services cover the period from January 24, 2013 through August 29, 2016.

Section 330(a)(1)(A) & (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional person" and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1)(A) & (B). In the present case, Applicant was employed to assist in the administration of the estate. The fee application satisfies the requirements of LBR 2016-1(c) and demonstrates that (1) Applicant rendered actual services to the estate that were necessary to the administration of, or beneficial at the time at which the services were rendered toward the completion of, the case, and the compensation sought for such services is reasonable; and (2) the expenses incurred on behalf of the estate for which reimbursement is sought were actual and necessary.

Accordingly, the court allows as final fees the sum of \$17,542.00. The

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**CONT... Melchiori Construction Co**

**Chapter 7**

court further allows as final expenses the sum of \$483.30.

Trustee shall submit an appropriate order.

<b>Party Information</b>
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**Debtor(s):**

Melchiori Construction Co

Represented By  
Edward P Kerns

**Trustee(s):**

Jerry Namba (TR)

Represented By  
Jeremy Faith  
Meghann A Triplett

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**9:16-10191 Adam Daniel Taylor**

**Chapter 7**

**#6.00** Hearing  
RE: [116] Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) ; For Finding that Buyer is a Good Faith Purchaser; Proposed Overbid Procedure; Stipulation for Relief from Automatic Stay; Declaration of Sandra K. McBeth. (Sholder, Joseph)

Docket 116

**Tentative Ruling:**

None.

<b>Party Information</b>
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**Debtor(s):**

Adam Daniel Taylor

Represented By  
Peter Susi

**Movant(s):**

Sandra McBeth (TR)

Represented By  
Felicita A Torres  
Joseph M Sholder

**Trustee(s):**

Sandra McBeth (TR)

Represented By  
Felicita A Torres  
Joseph M Sholder

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10:02 AM

**9:16-11526    Imelda Mendoza**

**Chapter 7**

**#7.00**    Reaffirmation Hearing Date Set  
RE: [10] Motion for Approval of Reaffirmation Agreement with CarFinance  
Capital    (Hernandez, Francisco)

Docket      10

**Tentative Ruling:**

None.

<b>Party Information</b>
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**Debtor(s):**

Imelda Mendoza

Represented By  
David H Chung

**Movant(s):**

CarFinance Capital

Represented By  
Francisco J Hernandez

**Trustee(s):**

Sandra McBeth (TR)

Pro Se